



# City of San Antonio

## Legislation Details (With Text)

**File #:** 18-5261

**Type:** Zoning Case

**In control:** Board of Adjustment

**On agenda:** 9/17/2018

**Title:** A-18-150: A request by Imagine Built Homes, LTD for a 2’ variance from the Mahncke Park Neighborhood Conservation District design requirement of a 10’ building separation to allow two structures to be 8’ apart, located at 329 Claremont Avenue. Staff recommends Denial. (Council District 2)

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. A-18-150 Attachments

Date	Ver.	Action By	Action	Result
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**Case Number:** A-18-150

**Applicant:** Imagine Built Homes, LTD

**Owner:** Imagine Built Homes, LTD

**Council District:** 2

**Location:** 329 Claremont Avenue

**Legal Description:** Lot 44, 45, and the West 15 feet of Lot 46, Block 2, NCB

**Description:** 6780

**Zoning:** “MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District

**Case Manager:** Debora Gonzalez, Senior Planner

### Request

A request for a 2’ variance from the Mahncke Park Neighborhood Conservation District design requirement of a 10’ building separation to allow two structures to be 8’ apart.

### Executive Summary

The subject property is located at 329 Claremont Avenue, approximately 480 feet west of North New Braunfels Avenue. The applicant is building a single-family home on the subject property, and is seeking a variance to allow the house to be 8’ from the adjacent home. The subject property is located within the Mahncke Park Neighborhood Conservation District, which requires a 10’ of building separation between structures. The applicant states that the previous structure was demolished due to deteriorating conditions with the intent of constructing a new house in its place. The previous structure was 5’ away from the west property line, and the

proposed new house will also have a 5’ side setback. While the property is proposed to be 5’ away from the west property line, which meets the setbacks, the non-conforming structure on the neighboring property on the west is only 3’ away from the property line.

Many homes in this neighborhood were built 3’ away from the side property lines prior to the adoption of the Mahncke Park NCD, which was adopted by City Council in January 2008, or the 2001 Unified Development Code. At that time most homes here were built when there was only a 3’ side setback requirement.

The Neighborhood Conservation District was created in 2008 to address neighborhood stability through compatible infill construction and rehabilitation within this unique neighborhood. Much of this part of the neighborhood, especially the portion where the subject property is located multiple single-family dwellings are in non-conforming placement with 3’ side setbacks.

As a result of a Council Consideration Request (CCR), the Mahncke Park NCD is currently under review. DSD is working with a Taskforce that is comprised of property owners within the neighborhood that have been working on revisions to the NCD since January, to address inconsistencies, clarify language, and propose standards to address new development patterns. Regarding this specific language in the NCD, the Taskforce recognized that the standard creates less developable space on a property when adjacent to non-conforming structures on either side. The review of this section was tabled to allow staff to work on language that would not “punish” a property if adjacent to non-conforming structures. It is anticipated that this language will be reviewed by the Taskforce in the next few meetings for comment and feedback.

**Subject Property Zoning/Land Use**

Existing Zoning	Existing Use
“MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District	Under construction - Single-Family Dwelling

**Surrounding Zoning/Land Use**

Orientation	Existing Zoning District(s)	Existing Use
North	“MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District	Single-Family Dwelling
South	“MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District	Multi-Family Dwelling
East	“MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District	Multi-Family Dwelling
West	“MF-33 NCD-6” Multi-Family Mahncke Park Neighborhood Conservation District	Single-Family Dwelling

**Comprehensive Plan Consistency/Neighborhood Association**

The subject property is within the boundaries of the Mahncke Park Neighborhood Plan and currently designated Urban Multi-Family Residential in the future land use component of the plan. The subject property is located within the Mahncke Park Neighborhood Association. As such they were notified and asked to comment.

### **Criteria for Review**

According to Section 35-482(e) of the UDC, in order for a variance to be granted, the applicant must demonstrate all of the following

1. *The variance is not contrary to the public interest.*

The public interest is defined as the general health, safety, and welfare of the public. In this case, the public interest is represented by spacing requirements that maintain neighborhood character.

2. *Due to special conditions, a literal enforcement of the ordinance would result in unnecessary hardship.*

A literal enforcement would result in the property owner having to meet the 10' building separation requirement.

3. *By granting the variance, the spirit of the ordinance will be observed and substantial justice will be done.*

The spirit of the ordinance is the intent of the code, rather than the strict letter of the law. The intent of the code is to provide for consistent development. The request to reduce the side setback does not observe the intent of the code.

4. *The variance will not authorize the operation of a use other than those uses specifically authorized in the zoning district in which the variance is located.*

The variance will not authorize the operation of a use other than those uses specifically authorized by the "MF-33 NCD-6" Multi-Family Mahncke Park Neighborhood Conservation District.

5. *Such variance will not substantially injure the appropriate use of adjacent conforming property or alter the essential character of the district in which the property is located.*

Staff finds that allowing for the reduction may detract from the character of the neighborhood.

6. *The plight of the owner of the property for which the variance is sought is due to unique circumstances existing on the property, and the unique circumstances were not created by the owner of the property and are not merely financial, and are not due to or the result of general conditions in the district in which the property is located.*

The circumstances were not created by the owner of the property. The adjacent structure is non-conforming.

### **Alternative to Applicant's Request**

The alternative to the applicant's request would be to adhere to the requirements of the Mahncke Park Neighborhood Conservation District

### **Staff Recommendation**

Staff recommends **DENIAL** of the variance request **in A-18-150** based on the following findings of fact:

1. The variances are contrary to the public interest in that it may detract from the character of the community.